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Attorney for Plaintiff David R. Peck,  
Trustee of the Tamalpais Property Trust

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID R. PECK, TRUSTEE OF THE  
TAMALPAIS PROPERTY TRUST,

Plaintiff,

v.

PER BESSING, ANTON C. POGANY,  
JEAN C. POGANY, EDWARD J. FOTSCH,  
LINDA N. FOTSCH, GOLDEN GATE  
NATIONAL RECREATION AREA,  
NATIONAL PARK SERVICE, GOLDEN  
GATE BRIDGE AND HIGHWAY  
DISTRICT and DOES ONE through  
THIRTY,

Defendants.

Case No. C 05-0960 SC

STIPULATION AND ORDER  
WITHDRAWING MOTION TO STRIKE  
FILED BY DEFENDANT GOLDEN GATE  
BRIDGE AND HIGHWAY DISTRICT

Date: September 16, 2005

Time: 10:00 AM

Ctrm: 1, 17<sup>th</sup> Floor

Judge: Honorable Samuel Conti

Plaintiff David R. Peck, Trustee of the Tamalpais Property Trust, through its attorney, John B. Keating, and Defendant Golden Gate Bridge and Highway District ("Bridge District") through its attorneys, Jahmal T. Davis of Hanson, Bridgett, Marcus, Vlahos and Rudy LLP, stipulate to clarify their joint understanding of the Complaint on file herein and to resolve the pending Motion to Strike brought by the Bridge District as follows:

- (1) Paragraph 88 alleging a right to attorneys fees regarding the Fourth Cause of Action for abatement of nuisance and paragraphs 5-8 of the prayer regarding seeking money damages, punitive damages and attorneys fees do not apply to the

1 Defendant Bridge District;

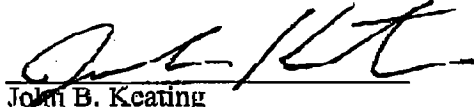
2 (2) Defendant Bridge District is not required to provide a response to paragraph 88 or  
3 paragraphs 5-8 of the prayer of the Complaint other than if Defendant Bridge  
4 District elects to respond by noting that the paragraphs are not applicable to that  
5 particular defendant;

6 (3) Plaintiff David R. Peck and Defendant Bridge District hereby request that  
7 Defendant Bridge District be allowed to withdraw its pending Motion to Strike  
8 set for hearing on September 16, 2005 and Defendant Bridge District hereby  
9 withdraws the Motion to Strike, each side to bear its own costs and fees;

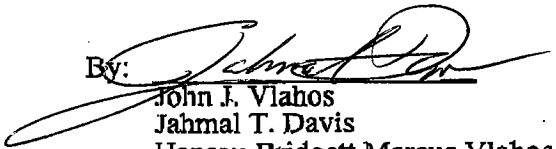
10 (4) This stipulated clarification of the understanding concerning the current language  
11 of the Complaint at paragraph 88 and paragraphs 5-8 of the prayer is without  
12 prejudice to any right to later amendment to assert such remedies if amendment  
13 otherwise might become appropriate, and the stipulation is without prejudice to  
14 any right of Defendant Bridge District to challenge any such amendment; and

15 (5) Defendant shall respond to the Complaint by September 26, 2005, which is ten  
16 days after the currently set motion to strike hearing date.

17 Dated: September 2, 2005

18 By:   
19 John B. Keating  
Attorney for Plaintiff, David R. Peck,  
Trustee of the Tamalpais Property Trust

20 Dated: September 2, 2005

21 By:   
22 John J. Vlahos  
Jahmal T. Davis  
Hanson Bridgett Marcus Vlahos & Rudy  
23 Attorneys for Defendant  
Golden Gate Bridge and Highway District

24  
25 **IT IS SO ORDERED**, the motion to strike currently set for hearing in this matter on  
26 September 16, 2005 is withdrawn and taken off calendar.

27 Dated: September 6, 2005

28 Case No. C 05-0960 SC

The Honorable Samuel Conti  
United States District Court  
STIPULATION AND  
MOTION TO STRIKE  
JUDGE Samuel Conti  
NORTHERN DISTRICT OF CALIFORNIA